



# Education Act 2005

## 2005 CHAPTER 18

### PART 2

#### SCHOOL ORGANISATION

#### **64 Proposals not requiring consent of Secretary of State**

- (1) Section 28 of the School Standards and Framework Act 1998 (proposals for establishment or alteration of community, foundation or voluntary school) is amended as follows.
- (2) Omit subsection (1A) and, in subsection (2), the words “(otherwise than pursuant to a notice under section 70 of the Education Act 2002)”.
- (3) After subsection (2) insert—
  - “(2A) Subsections (1)(a) and (2)(a) do not apply to any proposal to establish a secondary school which is to be maintained by a local education authority in England.
  - (2B) For the purposes of subsection (2A), “secondary school” includes a middle school as respects which the relevant upper age is at least 16 years, but does not include a school which provides education suitable only to the requirements of persons above compulsory school age.”
- (4) Omit subsection (4).

#### **65 Publication of proposals with consent of Secretary of State**

After section 28 of the School Standards and Framework Act 1998 insert—

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*Status: Point in time view as at 01/09/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 2005, Part 2. (See end of Document for details)*

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**“28A Proposals for establishment of community, foundation or voluntary school maintained by English LEA**

- (1) A local education authority in England may with the consent of the Secretary of State publish under this section their proposals to establish (otherwise than pursuant to a notice under section 66 of the Education Act 2005) a new community or foundation school.
- (2) Any persons (referred to in this Part as “promoters”) may with the consent of the Secretary of State publish under this section their proposals to establish (otherwise than pursuant to a notice under section 66 of the Education Act 2005) a new foundation or voluntary school which is proposed to be maintained by a local education authority in England.
- (3) Proposals under this section must be proposals for a secondary school; and for this purpose “secondary school” includes a middle school as respects which the relevant upper age is at least 16 years, but does not include a school which provides education suitable only to the requirements of persons above compulsory school age.
- (4) Proposals under this section shall—
  - (a) contain such information, and
  - (b) be published in such manner,as may be prescribed.
- (5) Before publishing any proposals under this section, the relevant authority or promoters shall consult such persons as appear to them to be appropriate; and in discharging their duty under this subsection the relevant authority or promoters shall have regard to any guidance given from time to time by the Secretary of State.
- (6) The relevant authority or promoters shall send—
  - (a) a copy of any proposals published under this section, and
  - (b) such information in connection with those proposals as may be prescribed,to the school organisation committee for the area of the local education authority who it is proposed should maintain the school.
- (7) Schedule 6 has effect in relation to—
  - (a) the procedure for dealing with proposals under this section and their implementation, and
  - (b) the provision of premises or other assistance in connection with their implementation.
- (8) Where any proposals published under this section relate to a school which is proposed to be situated in an area other than that of the local education authority who it is proposed should maintain the school, the provisions of subsection (6) and Schedule 6 shall have effect in relation to the proposals with such modifications as may be prescribed.
- (9) In this section “the relevant authority or promoters” means the local education authority mentioned in subsection (1) or the promoters mentioned in subsection (2) (as the case may be).”

*Status: Point in time view as at 01/09/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 2005, Part 2. (See end of Document for details)*

#### Commencement Information

- II** [S. 65](#) wholly in force at 1.9.2006; [s. 65](#) not in force at Royal Assent see [s. 125](#); [s. 65](#) partly in force at 1.8.2006 by [S.I. 2006/2129](#), [art. 3](#) and [s. 65](#) in force at 1.9.2006 insofar as not already in force by the said [S.I. 2006/2129](#), [art. 4](#)

## 66 Proposals for new secondary schools in England

- (1) A local education authority in England may publish a notice under this section inviting proposals for the establishment of any school falling within subsection (2) as a secondary school.
- (2) The following schools fall within this subsection—
  - (a) a foundation school;
  - (b) a voluntary school;
  - (c) an Academy.
- (3) A notice under this section must—
  - (a) identify a possible site for the school,
  - (b) specify a date, being a date after the prescribed interval, by which proposals must be submitted,
  - (c) specify such other matters as may be prescribed, and
  - (d) be published in the prescribed manner.
- (4) Before publishing a notice under this section, the local education authority must consult any prescribed persons, and such other persons as appear to the authority to be appropriate, about such of the relevant matters as may be prescribed or (if none are prescribed) about such of the relevant matters as appear to the authority to be appropriate.
- (5) In subsection (4) “the relevant matters” means the matters to be specified under subsection (3)(a) and (c) in the notice.
- (6) Regulations may prescribe requirements to be met by the local education authority in relation to consultation under subsection (4).
- (7) Proposals made pursuant to a notice under this section must—
  - (a) contain the prescribed information, and
  - (b) be submitted to the local education authority before the date specified in the notice.
- (8) After the date specified in a notice published by a local education authority under this section the authority—
  - (a) must publish under this section any proposals submitted pursuant to the notice in accordance with subsection (7), and
  - (b) may publish under this section proposals of their own for the establishment of a community or foundation school as a secondary school.
- (9) Regulations may prescribe—
  - (a) the time within which proposals under this section must be published,
  - (b) the manner in which they must be published, and
  - (c) the information which proposals within subsection (8)(b) must contain.

*Status: Point in time view as at 01/09/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 2005, Part 2. (See end of Document for details)*

- (10) Regulations may require the local education authority to take prescribed steps for the purpose of promoting public awareness of any proposals published by them under this section.
- (11) For the purposes of this section “secondary school” includes a middle school as respects which the relevant upper age is at least 16 years, but does not include a school which provides education suitable only to the requirements of persons above compulsory school age.
- (12) Schedule 10 contains provisions in relation to the consideration, approval and implementation of proposals under this section.
- (13) Where any proposals published under this section relate to a school which is proposed to be situated in an area other than that of the local education authority who published the notice under this section, the provisions of Schedule 10 shall have effect in relation to the proposals with such modifications as may be prescribed.
- (14) Section 70 of, and Schedule 8 to, the Education Act 2002 (c. 32) (proposals for additional secondary schools) shall cease to have effect.

#### Commencement Information

- I2** [S.66](#) wholly in force at 1.9.2006; [s. 66](#) not in force at Royal Assent see [s. 125](#); [s. 66\(6\)\(10\)\(13\)](#) in force at 1.8.2006 and [s. 66](#) in force at 1.9.2006 insofar as not already in force by [S.I. 2006/2129](#), [arts. 3, 4](#)

#### 67 Rationalisation of school places in England

Schedule 11 contains provisions enabling the Secretary of State to direct local education authorities in England, or the governing bodies of schools maintained by them, to bring forward proposals for the rationalisation of school places, and for such proposals to be made by him.

#### 68 Proposals for establishment of federated school

- (1) Proposals under—
- (a) section 28, 28A or 31 of the School Standards and Framework Act 1998 (c. 31),
  - (b) section 113A of the Learning and Skills Act 2000 (c. 21),
  - (c) section 193 of the Education Act 2002,
  - (d) section 66 of this Act, or
  - (e) paragraph 7 of Schedule 11 to this Act,
- for the establishment of a new school may relate to the establishment of the school as a federated school.
- (2) In this section “federated school” has the meaning given by section 24(2) of the Education Act 2002.

#### Modifications etc. (not altering text)

- C1** [S. 68](#) restricted (temp.) (1.9.2006) by The Education Act 2005 (Commencement No. 2 and Transitional Provisions and Savings) Order 2006, ([S.I. 2006/2129](#)), {art. 7}

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*Status: Point in time view as at 01/09/2006.*

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## **69 LEA not to establish school on opposite side of Welsh border**

No proposals may be published under any enactment—

- (a) for the establishment of a school in Wales which is proposed to be maintained by a local education authority in England, or
- (b) for the establishment of a school in England which is proposed to be maintained by a local education authority in Wales.

## **70 Proposals for discontinuance of rural primary school**

(1) Section 29 of the School Standards and Framework Act 1998 (proposals for discontinuance of community, foundation, voluntary or maintained nursery school) is amended as follows.

(2) For subsection (4) substitute—

“(4A) The matters to which the relevant body shall have regard in formulating any proposals under this section in relation to a rural primary school include—

- (a) the likely effect of the discontinuance of the school on the local community,
- (b) the availability, and likely cost to the local education authority, of transport to other schools,
- (c) any increase in the use of motor vehicles which is likely to result from the discontinuance of the school, and the likely effects of any such increase, and
- (d) any alternatives to the discontinuance of the school;

and in considering these matters the relevant body shall have regard to any guidance given from time to time by the Secretary of State.

(4B) Before publishing any proposals under this section which relate to a rural primary school, the relevant body shall consult—

- (a) the registered parents of registered pupils at the school,
- (b) where the relevant body are the governing body of the school, the local education authority,
- (c) in a case where the local education authority are a county council in England, any district council for the area in which the school is situated,
- (d) any parish council or community council for the area in which the school is situated, and
- (e) such other persons as appear to the relevant body to be appropriate.

(4C) Before publishing any other proposals under this section the relevant body shall consult such persons as appear to them to be appropriate.

(4D) In discharging their duty under subsection (4B) or (4C) the relevant body shall have regard to any guidance given from time to time by the Secretary of State.”

(3) After subsection (9) insert—

“(9A) In this section “rural primary school” means a primary school designated as such for the purposes of this section by an order made by the Secretary of State.”

*Status: Point in time view as at 01/09/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Education Act 2005, Part 2. (See end of Document for details)*

#### Commencement Information

- I3** S. 70 partly in force; s. 70 not in force at Royal Assent, see s. 125; s. 70 in force for E. at 1.9.2006 by S.I. 2006/2129, art. 5

### 71 Proposals relating to maintained special school

In section 31 of the School Standards and Framework Act 1998 (c. 31) (proposals in respect of community or foundation special school), for subsection (4) substitute—

“(4A) Before publishing any proposals under this section to make any prescribed alteration to a school, or to discontinue a school, the relevant body shall consult—

- (a) the registered parents of registered pupils at the school,
- (b) any local education authority which maintain a statement under section 324 of the Education Act 1996 (statement of special educational needs) in respect of a registered pupil at the school, and
- (c) such other persons as appear to the relevant body to be appropriate.

(4B) Before publishing any proposals under this section to establish a new school, the relevant body shall consult such persons as appear to them to be appropriate.

(4C) In discharging their duty under subsection (4A) or (4B) the relevant body shall have regard to any guidance given from time to time by the Secretary of State.”

#### Commencement Information

- I4** S. 71 partly in force; s. 71 not in force at Royal Assent see s. 125; s. 71 in force for certain purposes for W. at 1.9.2006 by S.I. 2006/1338, art. 3, Sch. 1 and in force for certain purposes for E. at 1.9.2006 by S.I. 2006/2129, art. 5

### 72 School organisation: further amendments

Schedule 12 contains further amendments relating to proposals for the establishment, alteration or discontinuance of schools.

#### Commencement Information

- I5** S. 72 partly in force; s. 72 not in force at Royal Assent see s. 125; s. 72 in force for certain purposes at 1.9.2006 by S.I. 2006/2129, art. 4 and for certain further purposes for E. at 1.9.2006 by S.I. 2006/2129, art. 5

### 73 Interpretation of Part 2

In this Part—

“adjudicator” is to be read in accordance with section 25(3) of the School Standards and Framework Act 1998 (c. 31);

“prescribed” means prescribed by regulations;

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*Status: Point in time view as at 01/09/2006.*

**Changes to legislation:** *There are currently no known outstanding effects for the Education Act 2005, Part 2. (See end of Document for details)*

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“regulations” means regulations made under this Part by the Secretary of State;

“school organisation committee”, in relation to proposals, means the school organisation committee (as defined by section 24(4) of the School Standards and Framework Act 1998) for the area of the local education authority which published the proposals.

**Status:**

Point in time view as at 01/09/2006.

**Changes to legislation:**

There are currently no known outstanding effects for the Education Act 2005, Part 2.